

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

|   |   |                      |
|---|---|----------------------|
| In the Matter of                              | ) |                      |
|   | ) |                      |
| Telecommunications Carriers Eligible to       | ) | WC Docket No. 09-197 |
| Receive Universal Service Support             | ) |                      |
|   | ) |                      |
| GreatCall, Inc.                               | ) |                      |
|   | ) |                      |
| Petition for Designation as an Eligible       | ) |                      |
| Telecommunications Carrier in Alabama, et al. | ) |                      |

**COMMENTS OF TRACFONE WIRELESS, INC.**

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## SUMMARY

TracFone Wireless, Inc. (“TracFone”) files its comments on the petitions for designation as an eligible telecommunications carrier (“ETC”) in nine states filed by GreatCall, Inc. (“GreatCall”). GreatCall seeks ETC designation for the purpose of receiving Lifeline and Link Up support from the low-income portion of the federal Universal Service Fund. GreatCall, a wireless telecommunications service provider, asserts that it meets the requirements for designation as an ETC, including the requirement in Section 214(e)(1)(A) of the Communications Act (47 U.S.C. § 214(e)(1)(A)) and Section 54.210(d)(1) of the Commission’s rules (47 C.F.R. § 54.210(d)(1)), that it provide at least some of its Universal Service Fund supported services with its own facilities. Commission rules provide that to qualify as a carrier’s “own facilities” the facilities must be physical components of the telecommunications network and must be used in the transmission or routing of the supported services. Furthermore, the Commission must determine whether a carrier is using its own facilities to provide service within the state that is the subject of a carrier’s ETC petition for designation in a particular state.

While GreatCall claims that it owns and operates switching facilities which route calls to fifteen percent of its customers, it fails to assert or demonstrate that it will be using its own facilities to provide any of the required supported services or functionalities listed in 47 C.F.R. § 54.101(a) in the states for which it requests designation as an ETC. Rather, GreatCall’s ETC petitions indicate that GreatCall will be providing Lifeline service by reselling the services of Verizon Wireless. Although GreatCall claims that it will provide access to operator services and directory assistance through its facilities, GreatCall does not demonstrate that it will be using its “own facilities” as defined in the Commission’s rules. In addition, even if GreatCall does use its own switching facilities to route calls from fifteen percent of its customers, GreatCall does not

identify where those customers are located, whether any of those customers are located in any of the states for which GreatCall seeks ETC designation, nor whether GreatCall will use those facilities to provide Lifeline service in the states for which it seeks ETC designation. Therefore, GreatCall may not rely on its ownership of a switch to support a claim that it is “facilities-based” for ETC designation purposes.

As a non-facilities-based wireless carrier, GreatCall may only be designated as an ETC if the Commission exercises its authority to forbear from applying or enforcing the facilities requirement for ETCs in the Communications Act and the Commission’s rules. In the event that GreatCall petitions the Commission for forbearance, the Commission should apply the same conditions and limitations on GreatCall as the Commission imposed on other wireless resale carriers that sought forbearance from the facilities requirement for ETCs, including that any such forbearance be limited to Lifeline service.

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| Telecommunications Carrier in Virginia    | ) |                      |

**COMMENTS OF TRACFONE WIRELESS, INC.**

TracFone Wireless, Inc. (“TracFone”) hereby submits its comments regarding petitions for designation as an eligible telecommunications carrier (“ETC”) filed by GreatCall, Inc.

“GreatCall”) on September 22, 2010.<sup>1</sup> In each of its nine ETC petitions, GreatCall seeks ETC designation for the purpose of participating in the universal service low-income Lifeline and Link Up programs.<sup>2</sup> GreatCall, a wireless telecommunications service provider, further asserts that it is a facilities-based carrier. However, GreatCall’s ETC petitions do not demonstrate that it is a facilities-based carrier. Rather, GreatCall’s ETC Petitions indicate that GreatCall intends to provide its Lifeline service solely through resale. As such, GreatCall is prohibited by Section 214(e)(1)(A) of the Communications Act of 1934, as amended,<sup>3</sup> and Section 54.201(d)(1) of the Commission’s rules<sup>4</sup> from being designated as an ETC. Therefore, TracFone requests the Commission to find that GreatCall does not meet the facilities requirement for designation as an ETC.

As with TracFone, Virgin Mobile USA, i-wireless and other resale carriers, GreatCall may only be designated as an ETC by the Commission or by state commissions upon exercise by the Commission of its authority codified at Section 10 of the Communications Act<sup>5</sup> to forbear from application or enforcement of Section 214(e)(1)(A) and Section 54.201(d)(1). If and when GreatCall petitions the Commission for forbearance, and makes all of the requisite showings, any determination by the Commission granting forbearance should be subject to the same conditions and limitations imposed by the Commission on all other petitions by wireless resale carriers from

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<sup>1</sup> Public Notice – Comment Sought on GreatCall, Inc.’s Petitions for Limited Designation as an Eligible Telecommunications Carrier in Alabama, Connecticut, Delaware, New Hampshire, New York, North Carolina, Tennessee, Virginia, and the District of Columbia, DA 10-1906, WC Docket No. 09-197, released October 1, 2010.

<sup>2</sup> GreatCall’s petitions for each of the nine states are essentially identical. In these Comments, TracFone will refer to those petitions collectively as “GreatCall’s ETC Petitions” and will cite to pages as they appear in the Alabama ETC Petition. However, TracFone’s comments apply to each of the nine petitions pending before the Commission.

<sup>3</sup> 47 U.S.C. § 214(e)(1)(A).

<sup>4</sup> 47 C.F.R. § 54.201(d)(1).

<sup>5</sup> 47 U.S.C. § 160.

the aforementioned statutory requirement that ETCs provide services supported by the Universal Service Fund using their own facilities or a combination of their own facilities and resale of other carriers' facilities. Among those limitations is that the scope of forbearance is limited to Lifeline service.

**I. The Communications Act and Commission Rules Require ETCs to Provide Lifeline Service In Part Using Their Own Facilities.**

Under Section 214(e)(6) of the Communications Act of 1934 ("Act"), as amended, (47 U.S.C. § 214(e)(6)), the Commission, consistent with the public interest, convenience and necessity, may, with respect to an area served by a rural telephone company, and shall, in all other cases, designate more than one common carrier as an ETC for a designated service area, so long as the requesting carrier meets the requirements of Section 214(e)(1). Section 214(e)(1)(A) provides:

(1) Eligible telecommunications carriers.--A common carrier designated as an eligible telecommunications carrier under paragraph (2), (3) or (6) shall be eligible to receive universal service support in accordance with Section 254 and shall, throughout the service area for which the designation is received—

(A) offer the services that are supported by Federal universal service support mechanisms under Section 254(c), **either using its own facilities or a combination of its own facilities and resale of another carrier's services** (including the services offered by another eligible telecommunications carrier);

(emphasis added). That provision of the Act is clear and unequivocal: ETCs shall offer universal service-supported services, at least in part, over their own facilities.

The Commission has promulgated rules to implement the facilities-based requirement of Section 214(e)(1)(A) of the Act. Section 54.201(d)(1) of the Commission's rules (47 C.F.R. § 54.201(d)(1)) mirrors Section 214(e)(1)(A) of the Act by requiring ETCs to offer the services supported by the federal universal service support mechanisms "either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services

offered by another eligible telecommunications carrier).” Commission rules also provide further detail regarding the meaning of “facilities” and “own facilities” for purposes of complying with the facilities-based requirement. Section 54.201(e) of the Commission’s rules (47 C.F.R. § 54.201(e)) provides: “facilities means any physical components of the telecommunications network that are **used in the transmission or routing** of the services that are designated for support.” (emphasis added). Section 54.201(f) of the Commission’s rules (47 C.F.R. § 54.201(f)) provides: “‘own facilities’ includes, but is not limited to, facilities obtained as unbundled network elements pursuant to Part 51 of this chapter, provided that such facilities meet the definition of the term ‘facilities’ under this subpart.”

When the Commission promulgated Section 54.201 it explained: “By encompassing only physical components of the telecommunications network that are used to transmit or route the supported services, this definition, in effect, excludes from eligibility a ‘pure’ reseller that claims to satisfy the facilities requirement by providing its own billing office or some other facility that is not a ‘physical component’ of the network as defined in this Order.”<sup>6</sup> Nor do operation support system functions meet the facilities requirement of Section 214(e)(1)(A) of the Act.<sup>7</sup> Thus, to qualify as a facilities-based provider for purposes of being designated as an ETC, the facilities at issue must be: (1) physical components of the telecommunications network and (2) used in the transmission or routing of the services. As such, a carrier’s facilities that are not being used to route or transmit services do not qualify as “facilities” to meet the ETC requirements in Section 214(e)(1)(A) of the Act.

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<sup>6</sup> In the Matter of Federal-State Joint Board on Universal Service, 12 FCC Rcd 8776, ¶152 (1997) (“USF Order”).

<sup>7</sup> USF Order, n.388 (operation support system functions would not meet the definition of “facilities”); operation support system functions consist of pre-ordering, ordering, provisioning, maintenance and repair, and billing functions. See 47 C.F.R. § 51.319(g).



Section 214(e)(1)(A) requires only that a carrier provide supported services, in part, using its “own facilities.” The Commission explained in the USF Order that Section 214(e)(1)(A) “does not dictate that a carrier use a specific level of its ‘own facilities’ in providing the services designated for universal service support ... and does not qualify the term ‘own facilities’ with respect to the amount of facilities a carrier must use.”<sup>8</sup> However, the carrier “must use its own facilities to provide at least one of the supported services.”<sup>9</sup> As noted above, “its own facilities” means **physical** facilities used for the **routing or transmission** of the telecommunications services which it provides.

In addition, the Commission has provided guidance to carriers who might seek ETC designation regarding the location of facilities for purposes of satisfying Section 214(d)(1)(A) of the Act. While the Commission concluded that facilities include “any physical components of the telecommunications network that are used in the transmission and routing of the supported services, [it found] that the statute does not mandate that the facilities be physically located in that service area.”<sup>10</sup> Consistent with this finding, the Commission promulgated Commission rule 54.201(g) (47 C.F.R. § 54.201(g)), which provides: “A state commission shall not require a common carrier, in order to satisfy the requirements of paragraph (d)(1) of this section, to use facilities that are located within the relevant service area, as long as the carrier uses facilities to provide the services designated for support pursuant to Subpart B of this part within the service area.”

Although Section 54.201(g) applies to those state commissions that exercise jurisdiction to designate carriers as ETCs, the Commission, in the USF Order establishing Section 54.201(g),

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<sup>8</sup> USF Order, ¶ 169.

<sup>9</sup> Id.

<sup>10</sup> Id., ¶ 177.

indicated that this requirement is not limited to ETC designations by state commissions.<sup>11</sup> It is also applicable to the Commission when it designates ETCs pursuant to Section 214(e)(6). As noted by the Commission, a switch located in San Antonio, Texas that is used to provide supported services in the service area encompassing Dallas, Texas would be considered “facilities” for purposes of determining whether a carrier was eligible to receive universal service support for the service area encompassing Dallas.<sup>12</sup> Commission rules define service area as follows: “a geographic area established by a state commission for the purpose of determining universal service obligations and support mechanisms. A service area defines the overall area [within the state of ETC designation] for which the carrier shall receive support from federal universal service support mechanisms.”<sup>13</sup> Therefore, “service area” is a concept specific to a particular state.

A state commission must determine whether a carrier’s own facilities are being used to provide universal service-supported services within a particular service area in its state to designate the carrier as an ETC in its state. Similarly, the Commission must determine whether a carrier is using its own facilities to provide service within the state that is the subject of a carrier’s petition to the Commission for designation as an ETC in a particular state. Nothing in the Act or the Commission’s rules can reasonably be interpreted as allowing for transmission or routing facilities located within one state to be counted for ETC qualification under Section 214(e)(1)(A) in another state. For example, a transmission line or switch located in California cannot be deemed to constitute “facilities” for Section 214(e)(1)(A) purposes in Alabama, unless, of course, that transmission line or switch in California is being used to transmit or route

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<sup>11</sup> Id.

<sup>12</sup> Id. Dallas and San Antonio in the same study area of a carrier which serves both communities.

<sup>13</sup> 47 C.F.R. § 54.207(a).

universal service fund-supported services to customers in Alabama.

**II. GreatCall Has Neither Asserted nor Demonstrated That It Will Use Its Own Facilities to Provide Supported Services in the States for Which It Seeks Designation as an ETC.**

GreatCall has not asserted nor demonstrated in any of its ETC petitions that it will use its own facilities to provide any Universal Service Fund-supported services in any of the states for which it has asked the Commission for ETC designation. Instead, GreatCall offers only the following conclusory statement regarding how it will provide supported services:

GreatCall operates as a Mobile Virtual Network Operator (“MVNO”) for most of the supported services, purchasing them on a wholesale basis from Verizon Wireless. GreatCall currently provides, or will provide, as of the date of designation, operator services and directory assistance, through its own facilities. In addition, approximately fifteen percent (15%) of GreatCall’s customers receive service through a separate platform whereby their calls are routed through GreatCall’s owned and operated switching facilities.<sup>14</sup>

As GreatCall candidly acknowledges, it is a MVNO, i.e., a wireless reseller. However, it also asserts that it will provide access to operator services and directory assistance through its own facilities and currently routes the calls of approximately fifteen percent of its customers through switching facilities at an undisclosed location that it says that it owns and operates. GreatCall fails to identify the location of that switch or the location of the customers who have their calls routed through its switching facilities. Neither does GreatCall assert that any future Lifeline customers in any of the states for which it is asking the Commission for ETC designation will receive service through those switching facilities. Indeed, a review of GreatCall’s ETC Petitions indicates that GreatCall’s claim that it plans to use any of its own “facilities” for offering supported services is wholly unexplained and unsupported and provides no support for a conclusion that any of its supported services would be provided using its own facilities for the transport and routing of those services.

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<sup>14</sup> GreatCall Alabama ETC Petition, at 6.

Section 54.101 of the Commission's rules (47 C.F.R. § 54.101) lists the services and functionalities that must be provided by an ETC. GreatCall does not indicate whether or how it would use its own facilities to provide any of these supported services or functionalities. Instead, it appears to be relying on the services of its underlying carrier to provide each of these services and functionalities.

1. Voice grade access (47 C.F.R. § 54.101(a)(1)) – GreatCall states that through Verizon Wireless's interconnection agreements with local exchange carriers, GreatCall's customers are able to make and receive calls on the public switched telephone network.<sup>15</sup> GreatCall does not claim that it uses any of its own facilities to provide voice grade access to its customers.

2. Local usage (47 C.F.R. § 54.101(a)(2)) – GreatCall states that it offers rate plans to provide varying amounts of local usage.<sup>16</sup> GreatCall does not claim that it is using any of its own facilities to provide local calling to its customers. In fact, given that GreatCall has stated that it relies on Verizon Wireless to provide its customers with access to the public switched telephone network, Verizon Wireless will also enable GreatCall to provide local calling supported by the Universal Service Fund.

3. Dual Tone Multi-Frequency ("DTMF") signaling or its functional equivalent (47 C.F.R. § 54.101(a)(3)) – GreatCall asserts that "the Verizon Wireless network currently uses out-of-band digital signaling and in-band frequency signaling that is the functional equivalent of DTMF signaling."<sup>17</sup> Therefore, Verizon Wireless facilities, not GreatCall facilities, will be used by GreatCall for DTMF signaling.

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<sup>15</sup> Id., at 7.

<sup>16</sup> Id.

<sup>17</sup> Id. at 7-8

4. Single-party service or its functional equivalent (47 C.F.R. § 54.101(a)(4)) – GreatCall states that it meets this requirement.<sup>18</sup> GreatCall does not state that it using any of its own facilities to provide single-party service.

5. Access to emergency services (47 C.F.R. § 54.101(a)(5)) – GreatCall states that all of its phones are capable of delivering automatic numbering information and automatic location information.<sup>19</sup> However, GreatCall does not explain how its customers are able to *access* emergency services. Given that it relies on Verizon Wireless to provide its customers with access to the public switched telephone network, it is apparent that Verizon Wireless is also enabling GreatCall to provide access to emergency services to its customers. GreatCall does not state that will use any of its own facilities to provide access to emergency services to Lifeline customers.

6. Access to operator services (47 C.F.R. § 54.101(a)(6)) – GreatCall asserts that it provides access to operator services for customer service and call completion. GreatCall further states that it employs and trains operators who provide the services through its own facilities.<sup>20</sup> GreatCall's utilization of its own operators to provide operator services does not constitute use of its own facilities because the operators are not physical components of the telecommunications network nor are the operators used in the transmission or routing of the services. GreatCall has asserted that it owns and operates switching facilities that serve approximately fifteen percent of its customers. However, GreatCall has not asserted nor demonstrated that these switching facilities will be used to provide any of its customers' supported services with access to operator

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<sup>18</sup> Id. at 8.

<sup>19</sup> Id.

<sup>20</sup> Id.

services nor has it described what type of facilities it is referencing. Therefore, GreatCall has not demonstrated that it will use its own facilities to provide access to operator services.

7. Access to interexchange service (47 C.F.R. § 54.101(a)(7)) – GreatCall states that it provides “all of its subscribers with the ability to make and receive interexchange or toll calls through GreatCall’s network.”<sup>21</sup> GreatCall’s network is a mobile network provided by Verizon Wireless. GreatCall does not state that it will be using any of its own facilities to provide its Lifeline customers with access to interexchange service.

8. Access to directory assistance (47 C.F.R. § 54.101(a)(8)) - GreatCall asserts that it provides access to directory assistance. GreatCall further states that it employs and trains operators who provide directory assistance services through its own facilities.<sup>22</sup> GreatCall’s employment of operators or directory assistance systems does not constitute use of its own facilities because the operators are not physical components of the telecommunications network nor are the operators or directory assistance systems used in the transmission or routing of the services. GreatCall has only asserted that it owns and operates switching facilities that serve approximately fifteen percent of its customers. However, GreatCall has not asserted nor demonstrated that these switching facilities will be used to provide any of its customers’ supported services with access to directory assistance nor has it described what type of facilities it is referencing. Therefore, GreatCall has not demonstrated that it will use its own facilities to provide its Lifeline customers with access to directory assistance.

9. Toll limitation (47 C.F.R. § 54.101(a)(9)) – GreatCall states that it has the technical capability to provide toll blocking if requested by customers and that it will offer toll blocking to

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<sup>21</sup> Id. at 8-9.

<sup>22</sup> Id. at 9.

qualifying low-income customers.<sup>23</sup> GreatCall does not state that it will use any of its own facilities to provide toll limitation.

As summarized in the preceding paragraphs, GreatCall has not shown that it will use any of its own facilities to provide any of the supported services or functionalities listed at Section 54.101 of the Commission's rules.<sup>24</sup> Rather, GreatCall utilizes Verizon Wireless's facilities to provide all of the supported services. As for access to operator services and directory assistance, which GreatCall claims to provide itself, there has been no demonstration that GreatCall's own facilities (within the meaning of "facilities" in Section 54.201 of the Commission's rules) will be used in the transmission and routing for those services.

GreatCall asserts that it owns and operates switching facilities that provide service to fifteen percent of its customers, but fails to mention those facilities in its description of how it will provide the supported services required by Section 54.101. Although GreatCall contends that it provides access to operator services and directory assistance "through its facilities" it does not assert that those facilities are the switching facilities (which it claims serve only fifteen percent of its customers) or some other facilities not identified in the ETC Petitions. Even if GreatCall routes calls from fifteen percent of its customers by using its own switching facilities, GreatCall does not identify where those customers are located, whether any of those customers are located in any of the states for which GreatCall seeks ETC designation, nor whether GreatCall will use its own switching facilities to provide Lifeline service or any service supported by the federal Universal Service Fund in the states that are the subject of GreatCall's ETC Petitions.

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<sup>23</sup> Id.

<sup>24</sup> USF Order, ¶ 169.

Absent an affirmative showing by GreatCall that its switch at an unidentified location is located in any state for which GreatCall asks for ETC designation and absent any showing that its switch will be used to provide any portion of the supported services which it seeks to offer as an ETC in each state for which GreatCall requests ETC designation, GreatCall may not rely on its ownership of a switch to support a claim that it is “facilities-based” for ETC designation purposes.

**III. GreatCall May Only Be Designated as an ETC by the Commission or by State Commissions upon Exercise by the Commission of Its Authority to Forbear from Application or Enforcement of the Facilities Requirement in 47 U.S.C. § 214(e)(1)(A) and 47 C.F.R. § 54.201(d)(1).**

TracFone cautions the Commission that the public interest will be harmed if it accepts GreatCall’s unsupported assertion that it is a facilities-based carrier when it is in fact operating as a pure reseller. Several wireless resellers, including TracFone, have sought and obtained the Commission’s forbearance from the facilities requirement prior to being designated as an ETC.<sup>25</sup> However, in each case, the Commission imposed several conditions to protect the public interest and the integrity of the federal USF and limited the forbearance to Lifeline service. For example, by the date it provides Lifeline service a wireless reseller ETC must provide its Lifeline customers with 911 and E911 access regardless of activation status and availability of minutes, It must provide its Lifeline customers with E911-compliant handsets and replace, at no additional charge to the customer, noncompliant handsets of existing customers who obtain Lifeline-supported service.

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<sup>25</sup> See Federal-State Joint Board on Universal Service Petition of TracFone Wireless, Inc. for Forbearance from 47 USC §214(e)(1)(A) and 47 CFR §54.201(i), 20 FCC Rcd 15095 (2005); Virgin Mobile USA, L.P. Petition for Forbearance from 47 USC §214(e)(1)(A), 24 FCC Rcd 3381 (2009); Federal-State Joint Board on Universal Service; Telecommunications Carriers Eligible for Universal Service Support i-wireless, LLC Petition for Forbearance from 47 USC §214(e)(1)(A), CC Docket No. 96-45, WC Docket No. 09-197, FCC 10-117 (released June 25, 2010).



Another condition is that wireless reseller ETCs like TracFone and like Virgin Mobile must obtain a certification from each Public Safety Answering Point where the carrier seeks to provide Lifeline service confirming that the carrier provides its customers with 911 and E911 access or self-certifying that it does so if certain conditions are met. As explained by the Commission: “[t]he provision of 911 and E911 services is critical to our nation's ability to respond to a host of crises, and this Commission has a longstanding and continuing commitment to a nationwide communications system that promotes the safety and welfare of all Americans, including Lifeline customers. As we have held previously, we believe these obligations are necessary to ensure that the Lifeline customers of these wireless resellers have meaningful access to emergency services.”<sup>26</sup> The Commission also imposes other conditions as “necessary safeguards to help deter waste, fraud, and abuse.”<sup>27</sup> Those conditions include annual verification that each Lifeline subscriber continues to be head of household and only receives Lifeline-supported services from the ETC. These conditions should also apply to GreatCall, as they do to TracFone and all other MVNOs who have been designated as ETCs. GreatCall, like those other MVNOs, must seek forbearance of the facilities requirement prior to being designated as an ETC and be subject to the same conditions and limitations of such forbearance.<sup>28</sup>

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<sup>26</sup> Telecommunications Carriers Eligible for Universal Service Support, et al., WC Docket No. 09-197, CC Docket No. 96-45, FCC 10-134 (released July 30, 2010), ¶ 12 (granting petitions for forbearance filed by four wireless resale providers for purposes of receiving Lifeline support).

<sup>27</sup> Id., ¶ 17.

<sup>28</sup> It has been more than five years since the Commission conditionally granted TracFone's forbearance petition in September 2005. It may be that, based upon the experience gained during that period, as well as changes in technology and the marketplace since then, the Commission may reasonably conclude that some of those conditions and limitations no longer are necessary or appropriate, and that changes to those conditions should be made. However, such determinations should be made in an orderly fashion, not by allowing certain MVNOs to avoid those conditions by claiming to be facilities-based in the absence of any showing that they will use their own facilities for the transmission or routing of any supported service.

**IV. GreatCall Has Not Demonstrated That It Is Entitled to Receive Link Up Support Even If It Is Designated as an ETC.**

Of even greater importance, every exercise by the Commission of its forbearance authority allowing resale wireless providers to be designated as ETCs has been limited to Lifeline service only. TracFone, Virgin Mobile, i-Wireless, and other wireless resellers granted regulatory forbearance, have been precluded from obtaining support from the Universal Service Fund for any service other than Lifeline. That means that such carriers may not receive high cost support and may not receive Link Up support. That same limitation should be applicable to GreatCall. Notably, GreatCall requests ETC designation for both Lifeline and Link Up support. However, nowhere in any of its ETC petitions does GreatCall indicate that it even has customary connection or activation charges for its wireless service. Pursuant to the Commission's rules governing Link Up, ETCs may receive support to reduce their customary charges for commencing service (i.e., connection or activation charges) of up to fifty percent, not to exceed \$30.<sup>29</sup> In the absence of any showing by GreatCall that it even has customary charges for commencing its wireless service, it would not be entitled to receive Link Up support even if it were a facilities-based carrier and not subject to the Commission's uniformly-applicable forbearance conditions and limitations included in all prior approvals of MVNO forbearance requests.

If GreatCall wishes to be designated as an ETC, it must do what every other wireless reseller desiring ETC designation has done. It must petition for and be granted regulatory forbearance subject to the Commission's standard conditions and limitations governing forbearance from the facilities-based requirements of Section 214(e)(1)(A) of the Communications Act and Section 54.201(d)(1) of the Commission's rules. It then may petition

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<sup>29</sup> 47 C.F.R. § 54.411(a)(1). Link Up support may not be used to offset the cost of a wireless handset.

the Commission and state commissions as appropriate for designation as an ETC subject to the aforementioned forbearance conditions and limitations.

### **CONCLUSION**

Based on the foregoing, the Commission should at a minimum require GreatCall to provide proof that it is using its own facilities to provide a supported service or, alternatively, find that it has sufficient information to make a determination that GreatCall is a reseller and deny GreatCall's ETC petitions until such time as the Commission has determined to forbear from application or enforcement of Section 214(e)(1)(A) of the Act and Section 54.201(d)(1) of the Commission's rules.

Respectfully submitted,

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